

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
GREENVILLE DIVISION**

**SANTINA MCGHEE,**

**PLAINTIFF,**

**VS.**

**CIVIL ACTION NO. 2:05CV148-P-A**

**JO ANNE B. BARNHART,  
COMMISSIONER OF SOCIAL SECURITY,**

**DEFENDANT.**

**FINAL JUDGMENT**

This matter comes before the court upon Defendant's Motion to Reverse and Remand [12-1].

Upon due consideration of the motion – no response having been filed – the court finds as follows,  
to-wit:

The motion is well-taken and should be granted. On January 23, 2003, an administrative law judge found that the plaintiff was not disabled as defined by the Social Security Act. The Social Security Appeals Council denied the plaintiff's request for review of the decision on April 18, 2003. The plaintiff then appealed to this court, which remanded her case to the Commissioner on October 22, 2003 so that the Commissioner could instruct the ALJ to seek clarification or additional evidence from Pravin Patel, M.D. and to re-evaluate the plaintiff's residual functional capacity.

On January 28, 2005, the ALJ issued a second determination that the plaintiff was not disabled under the SSA. Presently before the court is the plaintiff's appeal of the ALJ's second determination. In the process of this claim's appeal, remand, and second appeal, the plaintiff has been awarded SSI benefits beginning March 1, 2005 based on a primary diagnosis of an affective disorder and secondary diagnosis of mental retardation.

The Commissioner seeks a final judgment reversing the ALJ's January 28, 2005 decision to

deny benefits and to remand this case to the Commissioner so that she may send it to the Appeals Council who in turn will forward the case to the ALJ with instructions to consider the fact that the plaintiff has been found disabled on subsequent application and to re-evaluate her mental impairment, the severity of her behavior disorder, etc.

The court concludes that the Commissioner's motion should be granted.

**IT IS THEREFORE ORDERED AND ADJUDGED** that:

- (1) Defendant's Motion to Reverse and Remand [12-1] is **GRANTED**; therefore,
- (2) The Social Security Administrative Law Judge's January 28, 2005 determination that Santana McGhee is not disabled as defined by the Social Security Act is **REVERSED**;
- (3) This case is **REMANDED** to the Commissioner of Social Security for further proceedings; and
- (5) This case is currently **CLOSED**.

**SO ORDERED** this the 25<sup>th</sup> day of January, A.D., 2006.

/s/ W. Allen Pepper, Jr.  
W. ALLEN PEPPER, JR.  
UNITED STATES DISTRICT JUDGE